THE
RECONSTRUCTIONIST

DEDICATED TO THE ADVANCEMENT OF JUDAISM AS A RELIGIOUS CIVILIZATION, TO THE UPBUILDING OF ISRAEL'S ANCIENT HOMELAND, AND TO THE FURTHERANCE OF UNIVERSAL FREEDOM, JUSTICE AND PEACE.

Vol. III. March 19, 1937 Nisan 7, 5697 No. 3.

EDITORIALS

A VALUABLE LESSON

BUILDING UTOPIAS IN THE SCHOOLS

JEWISH ORGANIZATIONS WITHOUT ROOTS IN JEWISH LIFE

THE INTERPRETATION OF JEWISH LAW

By Boaz Cohen

THE PLIGHT OF A MILLION JEWS

By Paul Reich

THE HEROIC DESTINY OF ISRAEL

By Ben Zion Bokser

Published by

THE SOCIETY FOR THE ADVANCEMENT OF JUDAISM

15 West 86th Street, New York, N. Y.

THE RECONSTRUCTIONIST

cordially invites its readers and friends

to a Symposium on

"Has Religion A Future?"

THURSDAY EVENING, MARCH 18th, 1937, at 8:30 o'clock

at the YOUNG MEN'S HEBREW ASSOCIATION

92nd Street and Lexington Avenue
New York

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The Speakers:

DR. MORDECAI M. KAPLAN

RABBI EUGENE KOHN

RABBI MILTON STEINBERG

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This is the second of a series of symposia conducted by THE RECONSTRUCTIONIST during the season 1936-1937. The symposium of March 18 is conducted in cooperation with the Education Department of the Y. M. H. A.

"The latest available statistics state that the population of Poland is 74.9 per cent Roman Catholic. Would it be unreasonable to expect the Roman Catholic Church, now so ardently and properly solicitous for the religious liberty of Catholics in Spain and Mexico, to bring pressure to bear in the interest of liberty and justice for a minority group of another faith in a country whose population is three-fourths Roman Catholic?

"And similarly, the most cruel and unjust racial discriminations in this country are practiced in communities that are predominantly Christian and mostly Protestant. Have not Protestants a responsibility there? It is increasingly true that they recognize such a responsibility, but the weight of it does not rest upon them as heavily as it should. Whether Catholic or Protestant according to census reports, the country that practices intolerance or unreasonable discrimination against any racial or religious group within its boundaries is a non-Christian country."—*The Christian Century.*

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The RECONSTRUCTIONIST is published bi-weekly for twenty consecutive issues starting in October, by The Society for the Advancement of Judaism, 15 West 86th St., New York, N. Y. Subscription $1.00 a year; foreign $1.25; individual copy 10 cents. Entered as second class matter January 9, 1935, at the Post Office, New York, N. Y., under the act of March 3, 1879.

The editorials represent the opinions of the editors only.

EDITORIALS

A Valuable Lesson

EVERY American who is either not a white man or a Protestant belongs to one or another minority group. As such, he finds himself involved in one of the most troublesome problems of our day, the problem whether cultural or ethnic differences should be encouraged or discouraged. Authoritative opinion favors cultural pluralism in an advanced, progressive civilization. Outstanding anthropologists advocate that minority groups be permitted to foster their cultural integrity. They maintain that a program of "accommodation," rather than "assimilation," advances both majority and minority interests without essential loss to either.

The Catholic Church stands out as one institution which offers the strongest resistance to being assimilated. Though it presents evidences of accommodation, which indicate a tendency to reckon with changing times, conditions and ideas, it continues essentially unchanged at heart and in basic essence.

The activity of the Catholic Church before the New York State Legislature on the ratification of the National Child Labor Amendment is striking evidence of the continual watchfulness of the Catholic Church, the ease with which it mobilizes its forces to protect itself against any real or potential menace, and the general effectiveness of its attack. There seems to be quite general feeling that the attitude of the Catholic Church prevented passage of the Child Labor Amendment through the New York State Legislature.

Whether the Catholic Church is right or wrong on this particular issue is not here in question. We should accept the fact that it is motivated by honesty of purpose, a sincere interest in human welfare, and is operating on the basis of high ethical principles, in terms of Catholic philosophy and Catholic ideals. Of greater interest to all of us is this phenomenon of a minority group vitally concerned with preserving its integrity and resisting forces which threaten its assimilation into the larger group whose background, life, interests, ideals and goals differ in some very substantial respects from those of the majority group.

No one who has to deal with Jewish life and its problems realistically will propose duplicating a Catholic Church system in Jewish life. Nevertheless, of one thing we should be certain: that some kind of a better union of forces must be achieved in Jewish communal life in order better to be prepared and armed to do battle against those inhibiting forces and for

those issues upon which the development of a rich and meaningful cultural Jewish life can be built in the diaspora.

Conceived from this point of view, the effectiveness of the Catholic Church in safeguarding and advancing its program should be a valuable lesson to the disunited, antagonistic and competing organizations which so sadly make up the totality of the divided, almost stalemated forces of American Jewry. The Catholic Church gives the answer to those who contend that if Jews organized on a community basis, their Americanism would be impeachable. Let the timid souls among our people take heart from the example of twenty million Catholic Americans.

Building Utopias in the Schools

THE recent convention of the National Education Association in New Orleans was significant for many reasons, but possibly its most significant aspect was the differences revealed between the views of the timid liberals and the forthright progressives. These differences flared up in session after session. Some of the most provocative discussions were between Dean William F. Russell of Teachers College, Columbia University, and some of his more radical professors such as Counts, Newlon, Kilpatrick, and Childs.

Dean Russell was decidedly of the opinion that teachers should not organize in associations devoted to their own betterment. He deprecated the attempt to make teachers class conscious, to bring them into one party or to swerve them to the left or to the right. He went even further and maintained that all attempts to formulate a program of action for teachers and schools, all dreams of a new social order, all utopia-building were definitely harmful to school and society and played into the hands of communists and fascists.

These views are typical of the timid idealistic liberal educator. He would make the school a place free of all controversial issues, having nothing to do with the social realities of life, devoted to the pursuit of objective knowledge, and confined to academic ivory towers. He would have the teacher be an idealist devoted solely to his profession, not taking part in the struggles about him, not injecting these struggles into his class-room teaching, and leaving it as Dean Russell suggests to the patron of the school, the parent and the citizen to correct the evils of the schools, inadequate salaries, unsatisfactory courses of study, etc.

It is this intellectual laissez faire liberalism that will do more to bring fascism or communism than the utopia-building of the Counts', the Newlons and the Kilpatricks. What are teachers to do when their salaries are cut drastically, when schools are shut down, when they are dismissed because of social views? Should they appeal to the very patrons who are responsible for these conditions? Teachers have as much right to organize as farmers and laborers, or even business men. The teachers must shoulder the responsibility of formulating and developing broad social and economic policies for our country. While on the one hand laissez faire policy leads to reaction, and "class struggle" education may, on the other hand, lead to hatred and rigid dogmatism, no possible objection can be raised against education for democracy. And today genuine, thorough-going democracy is utopian, in the sense that our civilization is far from having achieved it. Would Dean Russell deprecate the teaching of democracy?

Teachers must mold the new generation in the light of a democratic philosophy of life. That kind of utopia-building must ever be with us. Jews certainly ought to be able to appreciate the life-giving force of messianic ideals. Our people survived because it held before its eyes constantly the vision of ultimate redemption. Indeed, the essence of the religious spirit is the ability to conceive utopias and to believe in the possibility of

their realization. America needs today just that kind of education which bears aloft the vision of a new social order; without it, our youth may sink into the bogs of hopelessness and despair.

Jewish Organizations Without Roots in Jewish Life

USUALLY, editorials are inspired by specific incidents. Something happens, and the editors of a periodical feel impelled to comment on it. If the periodical represents a clearly formulated philosophy, the comment shows the significance of the event from the standpoint of that philosophy. The RECONSTRUCTIONIST has made it a practice to publish just such editorials. It now proposes, however, from time to time, to publish editorials of a somewhat different character, editorials which do not necessarily hang on the peg of incident. They will deal with chronic ills. (They will *not* be entitled, "Chronicles"). These chronic ills persist; they are undermining the vitality of Jewish life. Unfortunately, they do not get involved with dramatic incidents, and they generally, therefore, escape notice in the Jewish press. It is with these that we intend to deal.

The first of these chronic ills may be described briefly as the failure of many worthwhile and constructive Jewish efforts to integrate themselves into the permanent body of Jewish life. This failure accounts for their weakness and inability to grow. There are two types of organizations: the purposive and the permanent. Purposive organizations are organized, as the name implies, for a particular "purpose": to maintain hospitals in Palestine, to teach Zionism to young people, to fight anti-Semitism, etc. Permanent institutions have no single purpose; they are established as centers of Jewish *living*: such permanent institutions are, for example, the synagogue, the community center, the Y.M.H.A. or Y.W.H.A.

What happens usually is this: the purposive organization finds itself without a home. It holds its meetings now in this center, now in that synagogue, now in the other club. For its members, it draws upon acquaintances, friends, and friends of friends. For its *cultural* activities, it draws upon this rabbi, that teacher and the other social worker. It has nothing to do with any other organization unless to make use of the space or the staff of that institution. In brief, many of these purposive organizations are "luftmensch" groups, with no roots in permanence.

We are not discussing here the ethics of this relationship between the purposive and the permanent organizations; we are interested at present in the effect of that relationship upon the purposive groups. Why do so many of them find it so difficult to increase their membership and to do effective work? Let us take a youth Zionist organization for example. Do the leaders not realize that young men and women cannot easily be converted to Zionism unless they have strong Jewish influence at home, unless they have a background of Jewish school training? Do the leaders not realize that all the youth work in the world will not avail, unless there is a worthwhile adult category into which the young people can graduate when they are no longer considered "youth?"

Furthermore, purposive groups can never hope to establish continuity in their efforts unless they are grounded, unless the groups are identified with some *building*. They have no way of finding their prospective members unless they have a milieu in which they may come upon Jews who are at least interested in being Jews. In a permanent institution, Jews of all kinds are to be found, some more interested in one aspect, others in another aspect of Jewish life. A purposive group organized in such an institution knows where to go in order to discover its potential membership. In addition, a club of adolescents, for example, can draw from the children of the Hebrew school; the ac-

tivities of the club will have purpose if the permanent institution conducts activities for those who are too old for the club.

The indispensability of integrating purposive groups into permanent institutions is particularly evident in the case of money-raising organizations. Jews will not go on indefinitely giving and giving, unless they can see some concrete evidence of the fact that Jewish life is rewarding and satisfying. It is reasonable to say, therefore, that an organization designed to get money out of Jews for, let us say, overseas' Jewish causes will have better success if the appeal is made in an environment where activities are going on which are making the participants happy that they are Jews.

The Interpretation of Jewish Law

By Boaz Cohen*

EUROPEAN and American law consists of regulations which aim at the preservation of order and peace in society and which derive their authority from the State. Jewish law, on the other hand, seeks to control the whole of man's life by a system of observances, both ritual and ceremonial, of ethical rules and civil jurisprudence. In early times, in all societies, religion, law and morals were undifferentiated. Thus, as late as the fourth century B.C.E. *nomos* (usually translated "law") embraced religious customs, as well as enacted precepts. "There is no system of recorded law, literally from China to Peru," says Maine,[1] "which, when it first emerges into notice is not seen to be entangled with religious ritual and observance. The law of the Romans has been thought to be that in which the civil and Pontifical jurisprudence were earliest and most completely disentangled. Yet the meager extant fragments of the Twelve Tables of Rome contain rules which are plainly religious or ritualistic."

A similar development took place in Jewish law. While the entire Pentateuch embraced both the ritual as well as the civil law, and was regarded as equally divine in origin, the Tannaim drew a distinction between the two[2] and took more liberty with the civil statutes than with the religious precepts. There were also a group of laws which pertained to both classes, such as the regulations concerning marriage, the priestly gifts[3] and the Sabbatical year. These rules were considered essentially as religious laws, yet they belonged to civil law as well, inasmuch as they involved property rights.

How does the need for interpretation arise? Laws are necessarily expressed in human language, no matter what their imputed origin may be. Since laws do not explain themselves, their meaning must be declared by a judge, or court, or some authority which has the power to execute or enforce them. The Bible contains a large number of rules of a general nature, often vague and ambiguous in meaning. It also contains other laws intended for definite and narrowly defined situations. When a specific case came up before a judge which was not completely dealt with in the Law, then the necessity for interpretation appeared. In the Pentateuch several cases are mentioned where interpretation of the law was required. In Numbers 15.32 it is recorded that a certain man was found gathering sticks upon the Sabbath day and he was put in ward because it had not been declared what should be done to him. The Rabbis[4] explain that Moses did not know

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what kind of death penalty was to be inflicted upon him, as it was not clear to Moses how to interpret the verse "those who profane the Sabbath will surely be put to death." A similar problem, it is related, was presented by the blasphemer.[5]

Secondly, the question arose whether the daughters may inherit their father's estate when he died leaving no male issue. While undoubtedly there existed a number of rules governing succession in early times, there was no provision for this specific case. Hence when the daughters of Zelophehad raised the question before Moses, he was in doubt as to how to interpret the meager legislation on this point. The Rabbis [6] were puzzled over the fact that the interpretation of these two laws should have escaped Moses, for according to their theory not only were general rules but details as well given to Moses on Sinai.[7] Hence they were compelled to reconcile the difficulties on other, theological grounds. En passant, it may be mentioned that according to the Midrash,[8] Moses learned only general rules of law on Sinai, since his stay there was comparatively short.

What the canons of interpretation were in historical times is nowhere stated in the Scriptures and we are left to conjecture. In the administration of law and justice in the Biblical era we may take it for granted that where the law was not explicit, the judge deferred to custom and precedent or decided in accordance with common sense and the notions of right and wrong that prevailed at the time. Thus, if Jacob had sued Laban for breach of contract for giving him Leah instead of Rachel, the judge would have undoubtedly decided that "it is not so done in our place, to give the younger before the first-born." [9] Solomon's famous decision in the case of the two women of bad repute, each of whom claimed the live child, was rendered in accordance with the dictates of practical understanding.[10]

When Jeremiah prophesied that the Temple would be destroyed like that of Shiloh and that the city of Jerusalem would be laid waste, he was seized by the priests and the prophets and indicted for committing a capital offense. His defenders who consisted of the elders of the people cited the precedent of Micah who had prophesied similar things during the reign of Hezekiah and yet had not been put to death.[11]

However, we are not primarily concerned here with the interpretation of the Unwritten Law, which may be compared to the decisions of the King's Council in England. Our problem is mainly the interpretation of the Written Law. In post-exilic times when the Pentateuch was accepted as the fundamental law of the Jewish people, it became the sole object of interpretation, just as the Constitution of the United States is the supreme law of the land. In one place we read that Ezra the Scribe was the interpreter (*Sofer*),[12] and the word is perhaps used in that sense in the Psalms [13] where we read: "But unto the wicked God saith: What hast thou to do to declare (*le-saper*) my statutes." Similarly, the Rabbis explain this verse wherein they found an allusion to Doeg.[14] In chapter 8 in the Book of Nehemiah we learn that Ezra had convoked an assembly of the Jews on the New Year's Day for a public reading of the Law. We are then informed that they read in the book of the Law of God with an interpretation and set forth the meaning and caused them to understand the reading. The word *meforash* [15] refers to an analysis of the law, i. e., Ezra supplemented with further details those rules which were very briefly formulated in the Pentateuch. On the other hand, *Wesom sekel* [16] alludes to the historical exposition of the laws which were interwoven with the records of Israel's history. In still another passage [17] we read that Ezra had set his heart to interpret (*li-drosh*) the Law of God. It is undoubtedly this verse that suggested to the Tannaim the use of the late Biblical word "Midrash" for the legal interpretation of Scriptures.

II

When we arrive at the Tannaitic period we note far reaching transformations in Jewish law that had taken place since Biblical times. We are not always able to trace this development for there are gaps in the sources. What we do know is that the change in social and economic conditions, the development of ethical notions and the growth of religious ideas have combined to produce many alterations in the Law. One of the chief factors in bringing about the adaptation of law to life was interpretation. In order to understand the hermeneutical rules of the Rabbis and the principles which influenced them in interpreting the Law, it is necessary to comprehend what ideas they entertained concerning the origin, the nature and purpose of the Law. According to them, the entire Pentateuch was verbally inspired [18] and the Written Law was supplemented by oral communications which supplied the details for the general rules in the revealed Torah. These explanatory details were known as Perush [19] in contradistinction to genuine interpretation which was called Midrash. The consequences of such a conception were that the Law was immutable and that none of its rules could be abrogated or amended. Only in case of an emergency could a law be temporarily suspended as was done by Elijah, and then only in order to further the observance of the law.[20] Otherwise the general rule obtained that the court had no right to make provisions that would under certain circumstances, in effect, make null and void a Biblical law.[21]

In the time of Philo there appeared a wave of antinominianism among the Hellenistic Jews. This was a logical consequence of the system of allegorical interpretation which was current among them. It is possible that some Jewish Gnostic sects were also imbued with these ideas. The hostility to the Law was most pronounced, however, in some early Christian sects, and we find Paul most violent in his opposition to the Jewish legal framework. Some faint echoes of these schismatic opinions are to be recognized in a number of agadic sayings,[22] such as, e.g., that the commandments will be abolished in the time to come, or that merely the festivals or sacrifices will be abrogated in the future era. But there is no doubt that these views were repudiated by the Rabbis, and by no means did this conception ever represent the majority opinion of the synagogue.

Secondly, the Rabbis held that the Law was complete in itself. This notion finds expression in a number of agadic utterances. One beautiful legend has it that when Moses ascended to heaven he was introduced to R. Akiba who was deriving innumerable rules from each jot and tittle of the Torah in the name of Moses. In another passage it is asserted that any point of law that might ever form a subject for discussion between teacher and disciple has already been revealed beforehand to Moses on Sinai.[23] We may not infer from these remarks that Moses was familiar not only with the penetrating remarks of the *Peri Megadim,* but also with the subtle distinctions of the *Shak* and *Taz.* It is a rather poetic way of expressing their conception that the Law was revealed in all its ramifications to Moses. Similarly, many legal philosophers who belong to the analytical school of jurisprudence maintain that enacted or statutory law is complete and perfect and that all interpretation is merely the logical and mechanical application of pre-existing rules.

One of the great difficulties that confronted the Tannaim when they came to adapt the law to the needs of their day was the paucity of Biblical texts that were available for interpretation. This deficiency they made up by devising a number of hermeneutical rules. A list of such principles current in his day was first formulated by Hillel and is known as the seven rules of Hillel. These were expanded into thirteen by R. Ishmael and am-

plified into thirty-two by R. Eliezer ben R. Jose ha-Galili. In addition to these official formulations a vast number of other rules existed. Some of these were grounded in logical reasoning, while many of them were arbitrary and even illogical. They had their basis in the conception that the Pentateuch was literally inspired, hence there were no superfluous words in the Divine Law. Even R. Ishmael's statement that the Torah speaks in the language of man [24] was merely a protest against the excessive interpretation of the infinitive absolute, for he too believed that there was no redundancy in Scripture.

While the Rabbis held that the Biblical legislation was of celestial origin, they were not unconscious of the fact that much of Israel's laws were also the product of human wisdom [25] which they designated as *Takkanot*. Thus it is of great significance to note that not only did the Tannaim institute ordinances, but even Moses [26] and the later Prophets were held responsible for such innovations. Similarly, the Rabbis realized that an important part of law was the result of a spontaneous growth to which they gave their official sanction, i.e., the *Minhagim*. [27]

The Rabbis of the Talmud were not narrow-minded legalists, as some bigoted Christian theologians of the last century believed, but men endowed with vision, common sense, tact and intuition. They looked upon the Law as an instrument which helped men to fulfill the Divine Will and to attain to physical and spiritual happiness. ("That it may be well with thee," as Scripture has it.)

Thus their interpretation was greatly affected by considerations as to the purpose and aim of the Law. Inasmuch as the Torah was to them in the words of Ezekiel "statutes of life," [28] it was natural that they found means of interpreting the Law in such a way as to permit one to wage war on the Sabbath in self-defense. They also evolved the principle that human life takes precedence over the observance of the Sabbath. Except in the case of the three cardinal sins, the Jew was never required to give up his life for the sake of religious precept. In this connection it should be mentioned that the Tannaim took into consideration the reason for the law and were swayed by it in their decisions. Thus we are told that R. Simon studied the reasons for the law.[29]

The Rabbis did not ignore the realities of life, nor the social needs of the time by imposing too grievous a burden upon the people. A number of their observations betray a vast deal of psychological insight. Thus they remark that we may not make the law irksome.[30] Neither is it advisable to expect at all times the fulfillment of each law in its minutiae for the Torah was not given to angels,[31] and in special cases where it is known beforehand that the enforcement of a particular rite is impractical, it is the better part of discretion to wink at its non-observance.[32] They paid due regard to the fact that certain rules became obsolete and were no longer observed. Several passages may be cited to illustrate this point. They say that the law is superseded by custom [33] and elsewhere they assert: "Go out and notice the practice among the people." [34] In another passage we read: "If Elijah will come and say it is permitted to perform the ceremony of *halitzah* with a shoe we hearken unto him; that it is not allowed to do so with a sandal, then we do not listen to him, because it is a general practice to employ the latter." [35]

Already in early Tannaitic times we find that the two great schools of Shammai and Hillel were divided over the method of interpretation. The former as a general rule construed the Law strictly, whereas the latter adopted a liberal interpretation. In modern times it has been shown that the divergencies in their method of interpretation can be traced to the differences in the social and economic status of the members of the two schools.

In a discussion between R. Ishmael and R. Elazar ben Azariah concerning the question whether the law about the Sabbatical year is in force in Ammon and Moab, the former said to the latter "the burden of proof is upon you for you put a strict construction upon the law.[36] Later on a compromise view was suggested by R. Joshua ben Korhah, namely, that in cases of Biblical law we follow the more rigorous interpretation, but in rabbinical rules the lenient view should be adopted. This opinion became one of the guiding principles of the Amoraim in deciding law.[37]

The Rabbis were aware of the importance of heeding the consequences of their decisions, for they often remark that one should not always promulgate a decision merely on the basis of a purely theoretical study of a legal question.[38] They insisted that only decisions that were handed down in connection with an actual case should constitute practical law.[39]

When the Rabbis instituted new ordinances, such as *Takkanot* or *Gezerot,* it was mostly with the aim to promote the observance of the Law, or as they put it to make a fence around the Torah. It was a fundamental principle with them that the continuity of Jewish Law must be maintained. Very often when they were at a loss to find a verse that lent itself to their interpretation, they would requisition some passage of Scripture which they were fully aware had not the slightest bearing upon the subject. This exegesis they characterized as *Asmakta.*[40] For the same reason when they ordained new rules it was always in the spirit of Biblical tradition.[41]

In order to give stability, certainty and authority to the Law, they evolved the principle that one court could not annul the decisions of another, unless it was superior to its predecessor both in numbers and in learning.[42] This was the way at least this statement was understood by the Amoraim and their successors. Theoretically such a principle would have put an end to all development of Jewish Law, especially since the conception that del Vecchio [43] so aptly termed "the myth of an ideal past" was prevalent, that the further back we go into antiquity, the greater are the scholars, and as we approach our own times learning progressively declines. As R. Johanan quaintly puts it "If the heart of the early authorities was as wide as the vestibule of the Temple, ours is as narrow as the eye of a fine needle.[44] Upon a great many later scholars such a view had the effect of stifling creative effort in the interpretation of the Law. In short, it introduced the attitude of "I am unworthy." [45] This was partly counteracted by the Geonic principle that the practice is in accordance with the later authorities.[46]

(To be concluded)

NOTES

1. Early Law and Custom, London 1883, pp. 5-6.
2. It seems that at a certain period in Biblical times questions of ritual (matters of the Lord) were decided by the priest and Levites, cf. Lev. X, 10-11 and Ezek. XLIV, 23, whereas civil cases (king's matters) belong to the province of the judges, who were responsible to the king, cf. 2 Chron. XIX, 11. This matter is quite complicated and deserves a critical investigation. cf. J.Q.R., N.S. XXV, 522-523.
3. Whether the redemption of the first-born belonged to ritual or civil law was discussed by Strashun in his notes to Bekorot 49b.
4. Sifre, Numbers 114.
5. Sifra, ed. Weiss, 104b and Sanhedrin 78b.
6. Baba Batra, 119a and Sifre Numbers, 133.
7. Sifra, Leviticus, XXV. 1, cf. the reading of Maimonides in his Introduction to the Commentary on the Mishna, ed. Hamburger, p. 5.
8. Exodus Rabbah, 41, 6.
9. Gensis, XXIX, 26.
10. 1 Kings, III, 16 et seq.
11. Jeremiah, XXVI, 7 et seq.
12. Ezra, VII, 11.
13. L, 16.
14. Cf. Sanhedrin, 104b, as well as 99b and Ginzberg, Legends of the Jews, IV, 75, 84.
15. Cf. Berliner, Targum Onkelos, II, 1884, pp. 74-76. Prof. Ginsberg called my attention to H. H. Schaeder, Ezra, der Schreiber, Tuebingen 1930, p. 53 who defends the traditional view of "meforash."

16. Cf. also Neh. VIII, 13.
17. Ezra, VII, 10.
18. Baba Batra 15a, Sanhedrin 100b, Genesis Rabbah, VIII, 7 and Moore, Judaism, I, 239 and Bonsirven, Le Judaisme Palestinien, I, Paris 1935, p. 259.
19. Cf. Hullin 61a, Sanhedrin 87a, 88b and Maimonides, Introduction to his Commentary on the Mishna.
20. Yebomot, 90b.
21. This is the view of Rabbah to which R. Hisda was opposed, cf. Yeb. 89b and Yad Malachi, 102. Bet Din is not to be taken literally, as the official Bet Din lost its authority after the time of R. Judah II, see Ginzberg, Jewish Encyclopedia, I, 114-115. For the post-Talmudic statement the sages have power to abolish a Biblical precept, cf. Tosafot, Yeb. 89b s. v. "Kewan," Gittin 55a, s. v. We-al Kenesset Hagedolah, Kelale Ha-posekim, no. 195. Yad Malachi, 295 and Kiddushe Anshe Shem to Alfasi on Shabbat, 10b. For the phrase *la-akor* (to abolish) cf. M. Pesahim, VI, 2.
22. Cf. Ginzberg, J. E. I, 630-632; Schechter, Some Aspects of Rabbinic Theology, p. 4 and Chajes, Torat ha-Nebiim, chapter Hakkat Olam; Aptowitzer, Parteipolitik, 116-123; Marmorstein, R. E. J., 87; 203-205; Aptowitzer, Parteipolitik, 1. c. 88; 48-50; Abrahams, Pharisaism and the Gospels, Second Series, p. 126.
23. Cf. Boaz Cohen, Konteros Ha-Teshubot, p. 23, note 2 and Er. 21b, as well as the reading of Moses di Trani, Kiryat Sefer, ed. Warsaw, 1902, p. 17b, note also that R. Yannai's statement (Yer. Sanhedrin, IV, 22a) that the decision on every future case of law was not revealed even to Moses, since the halakah could be interpreted in forty-nine different ways, it was to be decided by the majority. cf. Bacher, Agadah der Pal. Amoraer, I, 40, note 5, and Ginzberg, Legends of the Jews, VI, 284.
24. Berakot 31b, cf. also Heinemann, Altjuedische Allegoristik, Breslau, 1935, p. 74, note 11. Similarly, Philo held that there were no superfluous words in the Pentateuch, cf. Schuerer, Geschichte, III, 4th ed., p. 700, note 16.
25. Cf. the remark in Ketubot, 22a "Why quote scripture, it is common-sense." Dr. Johnson said that "Law is the last result of human wisdom acting upon human experience for the benefit of the public," quoted by Pound in Law and Morals, 1926, p. 10, note 24.
26. Cf. Taanit 27b where a Takkanah is ascribed to God Himself.
27. It is interesting to note that Takkanot and Minhagim are grouped together by Maimonides (in his Introduction to the Commentary on the Mishna) in direct opposition to the Talmud where the two are sharply distinguished. Perhaps he was influenced by the Greek writers. "It is significant," says Pound, "that Greek thinkers always couple custom and enactment, things which today we contrast." (An Introduction to the Philosophy of Law, p. 25).
28. Ezekiel, XXXIII, 15.
29. Kiddushin 68b. According to a late chronicle the reasons for the Law were all given on Sinai, cf. Neubauer, Mediaeval Jewish Chronicles, I, 164. They were taught by Solomon, cf. Er. 21b, Pes. 119a and Sanh. 102a and Gruenhut, Sefer Ha-Likkutim, IV, 45b, cf. also Wohlgemuth, Das juedische Religionsgesetz in juedischer Beleuchtung, I, 49ff and II, 34ff.
30. Cf. Taanit 14b, Yerushalmi, I, 7 and T. Sotah, XV, 10.
31. Kid. 54a.
32. T. Sotah XV, 10 in parallel passages. According to the Ittur, this applies only to laws derived only by interpretation from Scripture, but not to those explicitly mentioned, cf. R. Asher to Betzah, IV, 2.
33. Yer. B. M. VII, 1.
34. Ber. 45a.
35. Yeb. 102a.
36. Yadaim, IV, 2.
37. Abodah Zara, 7a; T. Eduyot, I, 5 and Yer. Git. I, 2, cf. Ran on Alfasi to R. H. 944 and the statement of Samuel concerning the practice in regard to the laws of mourning in M. K. 18b; cf. also J.Q.R.N.S. XXVII, p. 71, note 9. In opposition to the view that it is preferable to point out the more lenient opinion (cf. Hullin 58a and Niddah 61b) the later authorities invoked a blessing on the one who adopted the more stringent practice, cf. Tur Yoreh Deah, 65 end.
38. Betzah 28b, Baba Kamma 30b.
39. Cohen, Mishna and Tosefta, Part I, p. 36.
40. Cf. Guttmann, Asmakta, Breslau 1924.
41. Pes. 30b, cf. Elijah Galipapa, Yad Eliyahu, Tikkun 92 who remarks that the principle (Kol di-Tikun Rabbanan K-en d'Oraitha Tikkun) applies only to the ordinances of the Tannaim, and not to those of the Amoraim.
42. Eduyot, I, 5 and Mishna and Tosefta, I, p. 18, note 90.
43. The Formal Bases of Law, New York 1921, p. 289-290. "The habit of looking upon the past as the seal of truth has long ruled. The result of this habit was that the new findings of justice were almost always announced as confirmations or restorations of law formerly upheld, but later somehow abrogated), 1. c. p. 290, cf. also Meg. 3a "they were forgotten and later reintroduced."
44. Er. 53a. For the theory of degeneration cf. Tylor, Primitive Culture and Briffault, Rational Evolution, New York 1930, pp. 2-3.
45. For "Eni Kedai" cf. B. B. 165b.
46. Cf. Kontros Ha-Teshubat, p. 28-29.

The Plight of A Million Jews

By Boaz Cohen*

THERE are Jews in this country—their number is at least one million—who are not caught in the throes of an economic boycott, and who are not the victims of unbridled discrimination and bigotry. They do not live in constant fear of a pogrom, nor seek a means of emigration to more favorable climes. They enjoy some measure of economic security and even prosperity. Yet they find themselves in an unfortunate position which evokes our pity and our concern. I refer to those Jews who live in Jewish communities which number less than ten thousand. Their future is dubious. The type of Judaism that they will evolve is even more dubious.

I have always wondered whether Rabbi Jose ben Kisma was true to his calling when he refused to come to a small city to teach Judaism. We can appreciate his desire for learning and for spiritual advancement, but how can we condone his refusal to help people whose arms were outstretched for spiritual guidance, and who thirsted after the word of God? There are many rabbis of this type today who refuse to "vegetate" in the smaller communities, but who seek wider fields of work and of influence in the larger centers. It is doubtful however whether they are motivated by the same ideals as Rabbi Jose. But the tragic fact remains that the almost constant refusal of the more talented men to work in the neglected cities only aggravates what is already a seemingly hopeless condition. Two types of Judaism are created, which for the want of more definite appellations, may be called "urban Judaism" and "rural Judaism." This is not an attempt however to add another label to the many that already exist and which make Judaism a checkerwork.

Reconstruction is the topic of the day in Jewish life. Many are the attempts to effect that much needed harmony between tradition and modern wisdom, between the outlook of the Jew and the world outlook. But in practically every case the million Jews who are not fortunate enough to make their homes in the larger communities are almost totally neglected. They constitute the fringe which usually drags after the garment.

What is the nature of *rural* Judaism? The urban tendency of the Jew is well known to everyone who has followed the course of Jewish history in the diaspora. There are certain historical and psychological reasons for this gregarious instinct among our people. Most of those who sought the shores of America, either for protection or for enterprise, preferred to remain in the larger centers, such as New York, Chicago and Philadelphia. It was the path of least resistance. Here they could find Jews of their own type. Here European ghettos were transferred almost bodily. The immigrant needed little or no adjustment if he remained in the huge "melting pot."

But there were some who preferred the unbeaten paths. As individuals they set themselves up in towns and villages. It was a precarious undertaking from every point of view. It was a type of self-imposed *golus*. They came singly at first, and then in families, and in the course of time the entire country was dotted with small Jewish communities attempting to reconstruct some form of Jewish life in the face of almost overwhelming odds. Small synagogues were built, officials were engaged, mostly *shohktim* and teachers, and some measure of Jewish life was developed.

But while it was possible in the larger centers to transplant European Judaism to American soil in the early years of

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mass Jewish immigration to this country, it was not so possible in the smaller cities and towns. There were and still are certain insurmountable difficulties which cannot be avoided and which must be taken into consideration in formulating some active program of Jewish life.

The most trying problem is that of the Sabbath. I have frequently felt that if we could, even by artificial means, create some Sabbath atmosphere in the Jewish communities, our concern about the future would be somewhat relieved. One does not exaggerate by saying that it is difficult for the larger portion of Jews in the smaller communities to observe the Sabbath. To close one's business on the day of rest is the surest road to bankruptcy. The Sabbath is the main shopping and market day for the non-Jew who receives his wages at the end of the week and who makes preparations for his Sabbath, Sunday. Not only do the adults desecrate the Sabbath, but they are unable to transfer that Sabbath spirituality and devotion to their children.

Then there is the social problem which is very serious. The Jew cannot create a ghetto, nor does he want to recede within his own shell. The number of youth is by necessity very limited and it is obvious that the company of non-Jews will be sought. The next step, of course, is intermarriage, which, although not as rampant today as a decade ago, has made serious inroads into Jewish life, for every intermarriage with slight exceptions is a loss to the Jewish people. Nor must we be too prone to condemn these people. They are victims of conditions and circumstances. Had Judaism been presented to them in intelligible and palatable form by competent teachers and rabbis, they might have understood the dangers of intermarriage and have appreciated the value of preserving and developing our own cultural life. Jewish company is limited, and many must seek their social activities elsewhere. In recent years, this problem has not been aggravating because of growth of the Jewish conciousness resulting from the treatment of the Jews in Germany.

Jewish education is in a miserable condition. The idea that Judaism can be taught in modern fashion and by competent Americanized teachers has not penetrated deeply enough into some of our smaller communities. It is still felt by many well meaning people that an efficient teacher must be foreign born who has no knowledge, or at best an imperfect knowledge, of the English language. As a result the growing boys and girls develop an aversion to Hebrew schooling. Any attempt at reform is met with serious opposition. Educationally the results are negligible. Usually a child has only learned to read Hebrew correctly after four or five years of instruction.

The Jews are arrayed in well-defined camps, and every city regardless of size has *conservative* and *liberal* Jews. In many centers, all three parties in Jewish life are represented—the Orthodox, the Reformist and the Conservative. There is no Orthodoxy in the true sense of the word. Those who are strict "shomré Shabbos" may be counted on the fingers of both hands. Membership is usually a matter of sentiment rather than of conviction. The Orthodox synagogue has a daily minyan for Kaddish and Yahrzeit; it has a Hevra Kaddisha to administer the last rites. In short, it thrives more on the deceased than on the living. The youth is conspicuous by its absence. The sphere of influence of the Rav is very limited. He usually supervises Kashrut, although that too is a doubtful item. There are few really kosher homes, and Kashrut is more respected in the breach than in the observance. The very immutability of Orthodoxy and the uncompromising nature of the Rav makes the attempt to foster Orthodoxy a lost battle in the smaller cities. Reformist Judaism has been hopelessly ineffective in the smaller communities. The Reformist synagogue, although usually the most imposing structure, is almost devoid of activity. The younger generation of Reformist families

have not taken to it because of their lack of intensive training. The main support comes from the older German Jews, and those East European Jews who see social fulfillment in affiliation with the Reformist wing. Their ranks have thinned considerably. There is no longer any doubt even in the minds of Reformist leaders that Reformism will not survive unless it adopts a more intensive program of Jewish life and comes closer to what is now known as Conservatism.

The only element that is fully conscious of the problem and that is making a heroic effort to preserve and to foster Jewish values is the so-called Conservative group. A "Conservative" synagogue does not derive its name from the rabbi or from the institution from which he was graduated, but rather from the direction it gives to its work. It recognizes that Judaism must be preserved. It also recognizes the forces that militate against it. It does not put up a stiff opposition to these forces as do the Orthodox, nor does it yield to them as do the Reformists. It seeks to create a Jewish atmosphere and a Jewish milieu in which the plant of Judaism will be able to grow.

If there is no Shabbos at home, there is Shabbos in the synagogue. If people cannot come to service at sundown Friday, they come at eight o'clock when the traditional service is interspersed with English translations and when some topic of Jewish interest is discussed. The service does not degenerate into an organ concert. Community singing is encouraged.

It is difficult to get the adults to Shabbos morning service; the children are encouraged to come and do so in large numbers. If the home cannot supply the atmosphere, the synagogue must do so. One may continue at great length to describe what is and may be done. But none of these ideas can be put into effect without proper guidance and leadership — something that has been absent.

There is one redeeming feature about life in the smaller communities which should be capitalized and utilized in the formation of any definite program of work, and that is the willingness of the Jews to form themselves into organizations of all types. In many communities Jewish life is over-organized, but this fault may be turned into a virtue in any attempt to unite and unify all groups into a harmonious entity. This diffusion and duplication of energy can be mitigated through the creation of some form of Kehillah or community life which will save rural Judaism.

The task is not an easy one, but the Conservative rabbi and the Conservative synagogue are in a favorable position to do so. Already the scope of work of the Conservative synagogue is beyond strictly religious and educational activities. Many community undertakings have their headquarters in the synagogue. Lodges, fraternities, charitable and Zionist groups feel at home there. The rabbi is actively interested in every group, and serves as an unofficial officer. He can initiate a movement toward Kehillah organization.

This is the utopia toward which Jews everywhere, but especially in the smaller centers, must look. We cannot go on in disorganized and disunited fashion. Jews regardless of religious conviction have many things in common on which they can unite. But all of this is impossible without the proper leadership which has been lacking. The million Jews may serve as a great asset to the Jewish settlement in this country, or they may fall into oblivion and decay, depending upon the idealism and the competence of Jewish leaders.

The Heroic Destiny of Israel

By Ben Zion Bokser

THE dramatic spectacle which is now playing at the Manhattan Opera House in New York, under the name "The Eternal Road," was to be an achievement not only for the theatre but for Jewish life as well. It represents the synthetic product of the best talent that the theatre has to offer: a script by Franz Werfel, music by Kurt Weill, settings by Norman Bel Geddes, dances by Benjamin Zemach, and direction by that master showman himself, Max Reinhardt. The play was three years in preparation. Over $400,000 was spent on it. This extraordinary expenditure of resources and effort was justified by the ends sought. For this was to be a pageant that would recreate the Jewish past, give the lie to the calumnies of anti-Semites, and inspire the Jew with a new reverence for the grandeur of his heritage.

Does "The Eternal Road" achieve its purpose? Individual scenes are inspiring. The settings, almost without exception, are magnificently conceived. The music is invariably powerful and often achieves the mood of deep tragedy. A cast of 250 enacting their story on five simultaneously functioning stages cannot but create a sense of the colossal. But as an interpretation of the destiny of Israel the performance is, nevertheless, a disappointment.

In the very formulation of the problem, the play is guilty of ideological confusion. A Jewish community is faced with an edict of expulsion from the town in which they have lived for centuries, and with threats of violence from the mobs pending the execution of the edict. In terror all Jewry assembles in the synagogue. Even those who have formerly been estranged from the Jewish way of life come, for the synagogue is the only place that seems to offer some security. As "The Estranged One" confesses it in the play: "Long, long ago I had forgotten this community into which I was born.... I shall be honest with you! I should not have come back, had not the people recognized me by my face. Now we must seek protection in this forgotten house." So must "The Rich Man" who has been accepted in the best non-Jewish society and has no longer regarded himself as having anything to do with his fellow-Jews.

These characters are obviously types, and their experiences symbolic. The failure of their effort to escape Jewishness is clearly to be generalized into universal terms. Assimilation is then an illusion; the individual Jew cannot achieve his salvation by running away from the Jewish group but must seek it within that group. But how shall we explain the strange and similarly symbolic behavior of "The Adversary," who, refusing to pay the price of repeated persecutions, repudiates his Jewish affiliation and demonstratively leaves the synagogue? Where does he go? Does his departure imply that there is another alternative available for the Jew, the way of escape? The entire play is weakened as a result of this contradiction in the formulation of the problem.

Far more serious is the irrelevance of the answer which Mr. Werfel gives to the problem. The Jews who are gathered in the syngagogue are finally convinced that the king will not stay his edict and that when the night passes they must take to the dusty roads. A sense of despair settles upon the congregation. The Rabbi alone remains composed and proceeds to prepare his people for the great ordeal. "It is for us to remember," he tells them. In the records of their past, they will find the answer to their strange destiny. "Once more will I traverse with you the path which our souls, the souls of Israel have gone even from the beginning of time unto this day. . . . And the memories of that old eternal path will lend us strength for

the new one that begins tomorrow." The Rabbi reads the leading episodes of the Jewish past from a scroll of the law and they are at once dramatized on another stage. When the Jews finally go off into exile, they do so with a firmer step, their faith in life reestablished and unshaken.

How did this reading effect the change? What consoling meaning has emerged from this survey of the many varied episodes of the Jewish past? As Mr. Werfel interprets it, the Jewish past yields the great lesson that at the dawn of their history the Jews assumed the responsibility of being "a kingdom of priests and a holy nation." Sin eventually uprooted them from their homes and drove them upon the highways of exile. But when the proper time comes, the Messiah will appear and the tormented windings of exile's road will come to an end. Under the leadership of the King-Messiah, Israel will finally achieve redemption.

The promise of the Messiah might have been a real consolation to the Jews of a former generation, but it will not console the Jew of today. The play offers no answer to the ringing challenge of the Adversary: "I did not beg God for that promise which determines my fate. . . . Other human beings are born and suffer and die. So do I. But in addition I have to carry God on my back as though He were a mountain. Very well. I throw him off. . . ." These are powerful words and they are given greater poignancy by the superb acting of Sam Jaffe. But it is a failing in a play that is dedicated to the glorification of Jewish life not to provide an antidote to such a challenge. So motivated, the play becomes at best a historical document, a Jewish version of "The Green Pastures." It ceases to be a valid symbol for our problem in its present setting. Because of the irrelevance of its answer, "The Eternal Road" tends, as a matter of fact, to create a mood, not of courage but of defeatism and helplessness.

The episodes dramatized do not on the whole reach any appreciably higher level of conception or execution. The angels on the heavenly staircase sing their lines very beautifully but they follow a Florentine form and, in their cellophane trappings, look like the figures on the door of some German or Dutch church. The scenes of the dancing about the golden calf are drawn in full color, but the figure of Moses descending from the mountain appears feeble and inept. Not even Moses' smashing of the Tablets of the Law succeeds in creating the mood of tension which the occasion requires. The little boy who executes a dance at the fall of Goliath follows the pattern of the revue leader in a vaudeville show. Taken as a whole the play is pointless; and it has no relevant message for the modern Jew.

What is responsible for the failure of "The Eternal Road" to be what it might have been—the Jewish Passion Play? The Rabbi in the play calls upon his people to find the meaning of their suffering by reliving their past. But one cannot find the meaning of the past unless one has an intelligent knowledge of it. Mr. Werfel and Mr. Reinhardt are skilled artists, and they undoubtedly approached their task with high enthusiasm. But they do not know the Jewish past. The persecutions of Nazi Germany have driven them into the camp of Israel, but the enthusiasm born of a reaction to persecution cannot compensate for a lifetime of indifference to and ignorance of Jewish life.

One can only hope that the failure of the present effort will move these men to go back to the sources, to study more diligently, and to try to understand the life of their people more intelligently. When adequate knowledge is added to their craftsmanship and enthusiasm, they will be able to find more lucid and more cogent meanings in the heroic destiny of the Jewish people.